

SUMMARY REPORT OF INVESTIGATION¹**I. EXECUTIVE SUMMARY**

Date of Incident:	January 17, 2016
Time of Incident:	3:00 a.m.
Location of Incident:	XXXX N. Central Avenue
Date of COPA Notification:	January 17, 2016
Time of COPA Notification:	7:43 p.m.

The involved individual, Involved Civilian 1, was involved in a disturbance at Nightclub and struck a security agent, Involved Civilian 3. Chicago Police responded to the scene and placed Involved Civilian 1 into custody for Battery. Involved Civilian 1 became combative with the responding officers and was also charged with Aggravated Battery to a Peace Officer and Resisting/ Obstructing a Peace Officer. Involved Civilian 5, who did not witness the incident, subsequently registered this complaint on behalf of Involved Civilian 1 alleging that the arresting officers physically abused Involved Civilian 1. COPA found that the allegations against the officers are Unfounded.

II. INVOLVED PARTIES

Involved Officer #1:	Unidentified Officers
Involved Individual #1:	Involved Civilian 1, DOB: XXX. XX, 1990, male, Hispanic

III. ALLEGATIONS

Officer	Allegation	Finding
Unidentified Officers	1. It is alleged that Unidentified Officers physically abused Involved Civilian 1, in violation of Rule 8.	Unfounded

IV. APPLICABLE RULES AND LAWS

Rules
1. Rule 8: Disrespect to or maltreatment of any person, while on or off duty.

¹ On September 15, 2017, the Civilian Office of Police Accountability (COPA) replaced the Independent Police Review Authority (IPRA) as the civilian oversight agency of the Chicago Police Department. Therefore, this investigation, which began under IPRA, was transferred to COPA on September 15, 2017, and the recommendation(s) set forth herein are the recommendation(s) of COPA.

General Orders

1. G03-02: Use of Force Guidelines

Federal Laws

1. Graham v. Connor, 490 U.S. 386 (1989)

V. INVESTIGATION²

a. Interviews

In an interview with IPRA on January 23, 2016, **Involved Civilian 1** stated that he was at Nightclub celebrating his sister, Involved Civilian 9' birthday. Involved Civilian 1 stated that he could not recall the evening in its entirety because he consumed two or three twelve-ounce cans of Modelo Beers and four shots of whiskey and was intoxicated. At some point, Involved Civilian 1 became involved in a verbal altercation with security guards. Involved Civilian 1 did not remember the nature of the argument or whether the verbal altercation turned physical. Involved Civilian 1 recalled that the security guards handcuffed him and escorted him out of the club. Involved Civilian 1 related that once outside, the security staff pepper-sprayed him and had Involved Civilian 1 sit on the ground. The police arrived and both the police and Involved Civilian 1' sisters tried to calm Involved Civilian 1 because he was upset. Several uniformed police officers placed Involved Civilian 1 inside a police wagon and "threw" him to the floor. Involved Civilian 1 yelled to the officers that he could not breathe. Involved Civilian 1 related that he may have unintentionally kicked or hit the officers during his interaction with them. Involved Civilian 1 stated that he was too intoxicated to remember whether the arresting officers punched, kicked, or otherwise physically abused him. Involved Civilian 1 stated that he passed out and did not remember anything else until he woke up in the hospital. Involved Civilian 1 realized he was handcuffed to a hospital bed and became agitated. He kicked his legs and attempted to get out of the bed. An unknown person stood behind the bed and choked Involved Civilian 1 with the spit mask he was wearing, telling him to calm down. Involved Civilian 1 stated that hospital personnel and police officers were in the room at the time and he could not see who pulled the mask around his mouth.

Involved Civilian 1 stated that he sustained bleeding to his mouth, soreness to his ribs, and believes he was struck in the chest at an unspecified time. Involved Civilian 1' sisters Involved Civilian 9, Involved Civilian 7, Involved Civilian 2, and Involved Civilian 10; and brothers-in-law Involved Civilian 8 and "Involved Civilian 11" were with him at Nightclub on the night of the incident. Involved Civilian 1 added that he has an undiagnosed mental illness and refused to take medication for the illness.³

In an interview with IPRA on January 23, 2016, **Involved Civilian 2** stated that she and several family members were celebrating a birthday at Nightclub when Involved Civilian 1 became involved in a verbal altercation with another male. Involved Civilian 2 heard that someone swung at Involved Civilian 1, but she did not know if the person made contact with Involved Civilian 1' body. Four security guards ran toward Involved Civilian 1 and pulled him to the ground, face down. Involved Civilian 7 and Involved Civilian 8 held Involved Civilian 1 down and yelled at him to calm down. Involved Civilian 1 refused to calm down and kept trying to get up. Involved Civilian 2 related that the security guards pepper sprayed and Tased Involved Civilian 1. Security staff then brought Involved Civilian 1 to his feet, handcuffed him, and brought him outside to an alley behind the club. Three male uniformed officers arrived on scene. Two officers stood on

² COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

³ Attachments 9, 40.

either side of Involved Civilian 1 holding his arms. The third officer placed his forearm across Involved Civilian 1' throat. Involved Civilian 1 replied, "Leave me alone, I can't breathe." The officers attempted to place Involved Civilian 1 into a squad car, but he purposely went limp and fell on the ground. The officers grabbed Involved Civilian 1' arms, but he resisted by yelling, kicking and moving his arms. The officers brought Involved Civilian 1 from the squad car and placed him in a police wagon. Involved Civilian 2 stated that she was in a wheelchair and therefore had a limited view. An officer entered the police wagon and closed the door. Involved Civilian 2 heard Involved Civilian 1 yelling. Involved Civilian 2 stated that Involved Civilian 1 was intoxicated at the time of the incident. Other than holding Involved Civilian 1 and an officer placing his forearm across Involved Civilian 1' throat, Involved Civilian 2 did not see the officers have any other physical contact with Involved Civilian 1. According to Involved Civilian 2, Involved Civilian 1 has mental issues and may have had an episode at the club. Involved Civilian 2 stated that she did not believe alcohol was a factor, because Involved Civilian 1 has instances where he becomes aggressive and extremely violent even when he does not drink alcohol. Involved Civilian 2 related that her sister, Involved Civilian 9, recorded a portion of the incident on Involved Civilian 2' phone. Involved Civilian 2 agreed to email the video footage to IPRA.⁴

In a statement to IPRA on January 27, 2016, **Involved Civilian 3**, security agent for Nightclub, stated that he was working at the club when he received a radio request for security to respond to the "Nightclub Room A." Involved Civilian 3 relocated to the Nightclub Room A and observed a patron, now identified as Involved Civilian 1, on the floor. A woman was next to Involved Civilian 1 trying to help him up. The woman told Involved Civilian 3 that Involved Civilian 1 was on "psychotic" medication and had been drinking. When Involved Civilian 3 attempted to talk to Involved Civilian 1, Involved Civilian 1 punched Involved Civilian 3 on his mouth. Simultaneously another patron, now identified as Involved Civilian 6, engaged in an altercation with security staff and Involved Civilian 6 punched Involved Civilian 3 on his face. Involved Civilian 3 and other security guards escorted Involved Civilian 6 out of the club and returned to escort Involved Civilian 1 out of the club. Once outside, the police arrived. According to Involved Civilian 3, Involved Civilian 1 kicked the police officers. The officers requested backup because Involved Civilian 3 was combative. The officers tried to place Involved Civilian 1 in the back of the police SUV. Involved Civilian 1 refused to get in the vehicle and kept his legs far apart to prevent going in the car. Involved Civilian 1 dropped to the ground and stated he could not breathe. According to Involved Civilian 3, Involved Civilian 1 pretended that he passed out, but Involved Civilian 1 was still talking. The officers placed two sets of handcuffs on Involved Civilian 1. Involved Civilian 3 and the officers tried to get Involved Civilian 1 back on his feet to place him in the squad car. Involved Civilian 1 held his legs out and again refused to enter the squad car. Involved Civilian 1 repeatedly kicked one of the officers. The officers requested a police wagon to transport Involved Civilian 1. Once the wagon arrived, it took several officers to get Involved Civilian 1 in the wagon. Officers carried Involved Civilian 1 to the wagon by his arms and legs. The officers placed Involved Civilian 1 into a sitting position and put the seatbelt and safety restraints on him. Involved Civilian 3 stated that he did not observe the police officers strike or use any force against Involved Civilian 1 and Involved Civilian 3 did not observe any injuries to Involved Civilian 1. Involved Civilian 3 stated that he often deals with people who are drinking;

⁴ Attachments 19, 51. Attempts to obtain the video footage from Involved Civilian 2 met with negative results, attachment 67.

however, Involved Civilian 1's behavior was excessive and was more likely a combination of medication and alcohol consumption.⁵

In a statement to IPRA on December 15, 2016, **Involved Civilian 4** stated that on the date of the incident, he was providing photography services at the Nightclub. Involved Civilian 4 did not remember much of the incident and stated that incidents in the club were a regular occurrence. Upon seeing a photograph of Involved Civilian 1, Involved Civilian 4 recalled that Involved Civilian 1 was at the club with several family members or friends and was drinking heavily. Involved Civilian 1 became combative and pushed other patrons. Involved Civilian 4 recalled seeing Involved Civilian 1 laying on the floor. Security staff told Involved Civilian 1 to leave but Involved Civilian 1 refused to get up. Involved Civilian 1 eventually got up and security tried to escort Involved Civilian 1 outside. Involved Civilian 1 pulled away from the security guards and fell down two or three stairs inside the club. At security's request, Involved Civilian 4 called the police to escort Involved Civilian 1 out. Involved Civilian 4 did not remember whether the security staff brought Involved Civilian 1 outside for the police, or if the police came inside to get Involved Civilian 1. While Involved Civilian 4 remembered that the police responded, Involved Civilian 4 stated that he did not recall observing any contact between Involved Civilian 1 and the police.⁶

Attempts to interview Involved Civilian 9, Involved Civilian 11, Involved Civilian 7, Involved Civilian 8, Involved Civilian 6, and security guard Involved Civilian 12 were unsuccessful.⁷

b. Digital Evidence

Evidence Technician photographs depict what appears to be contusions on Involved Civilian 1's face and chest. The photographs also depict what appears to be dust on Officer B's left pant leg and redness to his right hand.⁸

Body camera footage from Involved Civilian 3's body camera does not contain any images relative to this incident.⁹

A request for **In-car video footage** produced positive results for Beats XXXXX,¹⁰ XXXXX,¹¹ and XXXXX.¹² The video from Beats XXXXX and XXXXX depict both squad cars arriving on scene; however, the videos do not depict Involved Civilian 1's arrest. The video from Beat XXXXX depicts the squad car arriving on scene. Beat XXXXX's squad car parked behind a marked police SUV. There was background noise and indecipherable yelling. A male voice was heard saying words to the effect of, "Relax your body. You've got to relax yourself." An unknown voice yelled, "Ahhh! My legs!" Approximately two minutes and fifty-eight seconds into the video, a uniformed male police officer opened the rear driver's side door of the marked SUV. The officer stepped into the rear driver's side of the SUV. There was more inaudible yelling. An unknown

⁵ Attachments 28, 41.

⁶ Attachment 56.

⁷ Attachments 22, 23, 46, 53, 67.

⁸ Attachment 14.

⁹ Attachment 60.

¹⁰ Assigned to Officer D, #XXXXXX, and Officer E, #XXXX.

¹¹ Assigned to Officer F, #XXXXXX.

¹² Assigned to Officer G, #XXXX, and Officer H, #XXXX.

male voice said, "Back away. Get out of here." Three minutes and thirty seconds into the video, the same officer that entered the rear of the SUV stepped out of the vehicle and then reached into the vehicle. At three minutes and fifty seconds, the officer closed the rear driver's side door of the SUV and walked out of camera view. Four minutes and sixteen seconds into the video, a male voice said words to the effect of, "He's not putting his legs in. Put him in the wagon." At the five-minute mark, multiple officers approached the rear driver's side of the SUV. An officer opened the door and a shirtless man, Involved Civilian 1, fell out of the vehicle. Multiple officers carried Involved Civilian 1 out of camera view.¹³

c. Physical Evidence

Medical records from Hospital A dated January 17, 2016 document that Involved Civilian 1 was involved in an altercation at a bar and sustained facial trauma. The records note that Involved Civilian 1 was hit to the face and punched police officers. Medical personnel noted right facial swelling to Involved Civilian 1' cheek bone with bruising. The records document that Involved Civilian 1 was intoxicated, agitated, and refused to follow commands or answer questions. Involved Civilian 1 was reportedly aggressive toward hospital staff and thrashed about on the bed. Involved Civilian 1 bled from his nose and mouth, and spit at staff members. Involved Civilian 1 was placed in restraints and given medication for patient and staff safety. A CT scan revealed that Involved Civilian 1 had a non-displaced nasal bone fracture. The fracture did not require surgical intervention or further testing. Involved Civilian 1 was also diagnosed with a head contusion and altered mental status.¹⁴

Medical records from Hospital B, dated January 19, 2016 document that Involved Civilian 1 complained of rib pain and nose pain following an altercation with police. Involved Civilian 1 told hospital personnel that he fell getting into a van while handcuffed and hit his nose on the metal floor. Hospital staff noted several areas of ecchymosis,¹⁵ including below the right eye, right anterior chest, and nose. An X-ray revealed that there was no displaced rib fracture or nasal bone fracture. Involved Civilian 1 was diagnosed with rib and nasal contusions.¹⁶

d. Documentary Evidence

The **Arrest and Case Reports** document that Involved Civilian 1 was charged with Aggravated Battery to a Peace Officer, Resisting/ Obstructing a Peace Officer, and Battery to Involved Civilian 3. It is reported that Officers A and B responded to a disturbance at Nightclub. Upon arrival, the officers observed security staff detaining Involved Civilian 1 and Involved Civilian 6. Security Agent Involved Civilian 3 related that as he attempted to break up a disturbance at Nightclub, Involved Civilian 1 punched Involved Civilian 3 on his face and mouth area. As Officers A and B attempted to place Involved Civilian 1 into custody, he pulled away and went limp to create dead weight with his body. Officers A and B carried Involved Civilian 1 to the squad car, at which time Involved Civilian 1 kicked Officer B multiple times on his thighs and stomach. Assisting officers arrived on scene and escorted Involved Civilian 1 to the squadrol. Involved Civilian 1 refused to walk on his own and again went limp to create dead weight. Once at the squadrol,

¹³ Attachments 63-65.

¹⁴ Attachment 48.

¹⁵ A discoloration of the skin resulting from bleeding underneath, typically caused by bruising.

¹⁶ Attachment 42.

Officers B, A, and C attempted to place the safety restraint belt around Involved Civilian 1. Involved Civilian 1 again kicked Officer B, striking him in the thighs, stomach and groin. Involved Civilian 1 also kicked Officer B on the right hand, causing Officer B's hand to strike the steel wall of the squadrol. Involved Civilian 1 further resisted by flailing his body and throwing his body weight. Officers A, C, and B issued verbal commands and used the minimum amount of force necessary to gain control of Involved Civilian 1, including closed hand strikes. Involved Civilian 1 was secured and transported to Hospital A for injuries sustained while resisting arrest. Involved Civilian 6 was also arrested and charged with Battery to Involved Civilian 3.¹⁷

The **Tactical Response Reports (TRR's)** of Officers A, B, and C document that Involved Civilian 1 did not follow verbal direction, stiffened, pulled away, and attacked without a weapon¹⁸. Officers A, B and C responded with verbal commands, and closed hand strikes/punches. Additionally, Officer B's TRR notes that he also responded with escort holds. The review section of the TRR's document that Involved Civilian 1 refused to answer questions without an attorney present when a supervisory Department member attempted to interview Involved Civilian 1 regarding the officers' use of force.¹⁹

The **Officer Battery Report** documents that Involved Civilian 1 struck Officer B with his feet. Officer B sustained non-fatal, minor injury.²⁰

The **Case Supplementary Report** documents that Involved Civilian 1, a suspected intoxicated patron of Nightclub, was removed from the premises by nightclub security guards Involved Civilian 3 and Involved Civilian 12. Involved Civilian 1 reportedly struck the security guards on the face and was subsequently detained for CPD. When Officer B and other officers attempted to place Involved Civilian 1 into a Department vehicle for transport, Involved Civilian 1 kicked Officer B multiple times about the body.

Officers B and A reportedly told Detectives that they pulled up in front of the location and a security guard directed them to the alley. The officers observed Involved Civilian 1 in handcuffs, standing next to a security guard. A security guard reported that Involved Civilian 1 punched him on the face. Officers B and A used verbal commands to get Involved Civilian 1 to walk to their squad car. Involved Civilian 1 made his body go limp and he fell to the ground. As Involved Civilian 1 lay on the ground, the officers removed the security guards' handcuffs and replaced them with a double set of their own handcuffs. As the officers attempted to place Involved Civilian 1 in their squad car, Involved Civilian 1 yelled that he could not breathe and again his body went limp. Officers B and A attempted to push Involved Civilian 1 into the rear seat of the squad car while Officer I went to the opposite side and attempted to pull Involved Civilian 1 into the squad car. Involved Civilian 1 turned on his side and kicked Officer B in the upper leg/ lower abdominal region. The officers held Involved Civilian 1' legs but were unable to push his legs into the squad car to close the door. The officers requested additional CPD units and a police wagon. The officers then removed Involved Civilian 1 from the squad car and walked him toward the wagon. As they approached the wagon, Involved Civilian 1' body went limp and the officers held Involved Civilian

¹⁷ Attachments 29, 31, 32.

¹⁸ Officer C's TRR does not note that Involved Civilian 1 pulled away.

¹⁹ Attachments 33-35.

²⁰ Attachment 36.

1 in a standing position and carried Involved Civilian 1' limp body to the wagon. Involved Civilian 1 tensed up his body. The officers placed Involved Civilian 1 on the floor of the wagon and then entered the wagon to place Involved Civilian 1 on the seat. The officers placed Involved Civilian 1 in an upright sitting position to strap him into the seat belt. Involved Civilian 1' eyes opened wide and he kicked Officer B in the groin area. Involved Civilian 1 also kicked Officer B's right hand against the interior wall of the wagon. Involved Civilian 1 attempted to stand up inside the wagon and the officers attempted to control his legs. The officers used facial strikes to subdue Involved Civilian 1. Involved Civilian 1 ceased his combative actions and both Involved Civilian 1 and Officer B went to the hospital for medical attention. The officers later told Detectives that Involved Civilian 1 apologized to the officers when Involved Civilian 1 returned from the hospital.

Involved Civilian 3 provided Detectives an account of the incident consistent with the information he provided in his statement to IPRA. Additionally, Involved Civilian 3 stated that when the police attempted to exchange the handcuffs Involved Civilian 1 was wearing, Involved Civilian 1 thrust toward the police to knock them to the ground. Security personnel pushed Involved Civilian 1 back toward a fence to protect the police from Involved Civilian 1. Involved Civilian 3 tried to help the police officers place Involved Civilian 1 inside a police vehicle, but Involved Civilian 1 kept kicking and refused to go in the vehicle. According to Involved Civilian 3, Involved Civilian 1 fell to the ground as dead weight, pretending to pass out. Involved Civilian 1 was ultimately secured in the police wagon and transported from the scene. Detectives inventoried a memory card from Involved Civilian 3's body camera. Detectives attempted to view video footage of the incident but did not locate any relevant files on the memory card.

Involved Civilian 12 told Detectives that he was checking identification cards at the front door of the Nightclub when he heard via his two-way radio that there was a confrontation in the Nightclub Room A. Involved Civilian 12 went to the Nightclub Room A and Involved Civilian 1 was secured by security personnel and escorted out of the club. Involved Civilian 12 related that Involved Civilian 1 thrust toward and kicked the police as they tried to get him into the police car and wagon.

The Case Supplementary Report documents that Involved Civilian 6 told Detectives that he did not know Involved Civilian 1 and that Involved Civilian 6 was in handcuffs in front of the club when the police arrived on scene. Involved Civilian 6 added that he did not witness a fight or altercation between Involved Civilian 1 and the police officers. The Detectives attempted to interview Involved Civilian 1; however, Involved Civilian 1 requested an attorney and the interview was terminated.²¹

e. Additional Evidence

An **Observation of Injury Report** documents that at the time of Involved Civilian 1' interview, an investigator observed bruising underneath Involved Civilian 1' right eye, bruising to his right upper chest, marks on his wrists, and a mark on his neck. Involved Civilian 1 related that he did not know how he sustained the injuries or who caused the injuries.²²

²¹ Attachments 43-44.

²² Attachment 11.

Court records document that the Aggravated Battery to a Peace Officer charges against Involved Civilian 1 were dismissed. Involved Civilian 1 plead and was found guilty of Resisting a Peace Officer.²³

VI. ANALYSIS

COPA recommends a finding of **Unfounded** for **Allegation #1** against **Unidentified Officers**, that they physically abused Involved Civilian 1. The reporting party, Involved Civilian 5, did not witness the incident. Involved Civilian 1 stated that he was intoxicated at the time of the incident and therefore could not remember many of the details of that night. Involved Civilian 1 recalled that he was involved in an altercation with security guards but did not remember whether the altercation turned physical. Involved Civilian 1 related that he was too intoxicated to remember whether the police officers kicked, punched or otherwise physically abused him. Additionally, Involved Civilian 1 acknowledged that he may have kicked or hit the officers.

Involved Civilian 1's sister, Involved Civilian 2, reported that Involved Civilian 1 has a propensity to become aggressive and violent. Involved Civilian 2 stated that when the officers tried to place Involved Civilian 1 into custody, he resisted arrest by yelling, flailing his arms and kicking at the officers. Involved Civilian 2 did not observe the officers physically abuse Involved Civilian 1. Involved Civilian 3 also stated that he did not observe the police officers strike or use any force against Involved Civilian 1. According to Involved Civilian 3, Involved Civilian 1 resisted arrest and kicked the officers. Prior to the officers' arrival, Involved Civilian 1 was combative with Involved Civilian 3 and struck him on the face.

Department records document that Involved Civilian 1 refused to follow verbal direction, stiffened, pulled away and kicked responding officers. The involved officers admitted using force against Involved Civilian 1 to place him into custody and documented their actions in Department reports. Hospital staff noted that Involved Civilian 1 was intoxicated, uncooperative, and aggressive toward hospital personnel. Involved Civilian 1 reportedly thrashed about on the hospital bed and spit at staff members. Hospital staff placed Involved Civilian 1 in restraints and administered him medication for their safety. While it is evident that Officers A, B, and C used force against Involved Civilian 1, based on the totality of circumstances, specifically Involved Civilian 1's lack of memory regarding what happened and the witnesses' failure to report any specific allegations of misconduct, COPA recommends that the allegation be classified as Unfounded, and that the investigation be terminated without requesting statements from any of the involved officers.

VII. CONCLUSION

Based on the analysis set forth above, COPA makes the following findings:

Officer	Allegation	Finding
Unidentified Officers	1. It is alleged that Unidentified Officers physically abused Involved Civilian 1, in violation of Rule 8.	Unfounded

²³ Attachment 58.

Approved:

COPA Deputy Chief Administrator – Chief

Investigator

Deputy Chief Administrator – Chief Investigator

Date

Appendix A

Assigned Investigative Staff

Squad#:	XXX
Major Case Specialist:	COPA Major Case Specialist
Supervising Investigator:	COPA Supervising Investigator
Deputy Chief Administrator:	COPA Deputy Chief Administrator – Chief Investigator